## REMARKS

In response to the Office Action dated September 14, 2005, Assignee respectfully requests reconsideration based on the following remarks. Assignee respectfully submits that all pending claims are in condition for allowance.

The United States Patent and Trademark Office (the "Office") rejected claims 1-2, 6-13, 15-22, and 32-46 under 35 U.S.C. § 102(e) as being anticipated by *Boe et al.* (U.S. Patent No. 6,236,975) and rejected claims 3 and 5 under 35 U.S.C. § 103(a) as being unpatentable over *Boe*. The Assignee shows, however, that the pending claims are not disclosed, anticipated, and/or obviated by the cited documents. Thus, the Assignee respectively submits that the pending claims are ready for allowance.

### *March 7, 2006 Interview*

On March 7, 2005, an in person interview (hereinafter referred to as "the Interview") was held with Jonathan Ouellette (Examiner) and Bambi Walters (Attorney for Assignee). During the Interview, the participants discussed proposed amendments to incorporate information as disclosed and claimed in Assignee's cross referenced and incorporated by reference patent to *Grauch et al.* (U.S. Patent No. 6,983,478). More specifically, the participants discussed further claiming "ClickStream" information as disclosed and claimed in *Grauch* and as disclosed and incorporated by reference in U.S. Patent Application No. 10/017,640. *See* U.S. Patent Application No. 10/017,640, paragraph 30; *see also* U.S. Patent No. 6,983,478, col. 21, lines 10-67 and FIGS. 1 and 7. Moreover, the participants briefly discussed a possible 35 U.S.C. § 101 rejection to the step of "analyzing the matched data to determine a probability of the subscriber to purchase the product . . ." and discussed amending this step as enabled in the specification and cross referenced patent.

### *§§ 102 & 103 Rejections:*

The United States Patent and Trademark Office, hereinafter referred to as the "Office" rejected 1-2, 6-13, 15-22, and 32-46 under 35 U.S.C. § 102(e) as being anticipated by *Boe et al.* (U.S. Patent No. 6,236,975). A claim is anticipated only if each and every element is found in a

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single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

The Office further rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over *Boe*. If the Office wishes to establish a *prima facia* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P.").

As the Assignee shows, however, the reference to *Boe* fails to include every element of the pending claims. The reference to *Boe*, then, does not anticipate and does not obviate the claimed subject matter, and Assignee respectfully requests that Examiner Ouellette remove the rejections and allow the pending claims.

The amended independent claims include information as disclosed and claimed in Assignee's cross referenced and incorporated by reference patent to *Grauch et al.* (U.S. Patent No. 6,983,478). More specifically, the independent pending claims are provided below.

1. A method for utilizing information relating to a subscriber to identify said subscriber comprising:
    receiving data from a plurality of programming and advertising sources;
    receiving *subscriber data about a subscriber's use of the programming and advertising sources, the subscriber data comprising:*
        *i) a command of interest from the subscriber;*
        *ii) an event record that comprises a command of interest and a time associated with the command of interest;*
    receiving a subscriber attribute, the subscriber attribute comprising data about the subscriber;
    merging said data from said plurality of programming and advertising sources, said subscriber data, and said subscriber attribute to create a subscriber information data store;

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matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

*if data of said subscriber information data store matches an advertisement attribute, then identifying said subscriber as a desirable subscriber to receive a selected advertisement from a provider of said product.*

16. A computer-readable medium on which is encoded computer program code for utilizing information relating to a subscriber to identify said subscriber comprising:

computer program code for receiving data from a plurality of programming and advertising sources;

computer program code for receiving *subscriber data about a subscriber's use of the programming and advertising sources, the subscriber data comprising:*

*i) a command of interest from the subscriber;*

*ii) an event record that comprises a command of interest and a time associated with the command of interest;*

computer program code for merging said data from said plurality of programming and advertising sources, said subscriber data, and said subscriber attribute to create a subscriber information data store;

computer program code for matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

*computer program code for analyzing the matched data to identify a desirability of said subscriber, such that if data of said subscriber information data store matches an advertisement attribute, then identifying said subscriber as a desirable subscriber to receive a selected advertisement from a provider of said product.*

17. A system for utilizing information related to a subscriber to identify the subscriber comprising:

a content database, wherein said content database comprises data from a plurality of programming and advertising sources;

*a subscriber-action database, wherein said subscriber-action database comprises subscriber data about a subscriber's use of the programming and advertising sources, the subscriber data comprising:*

*i) a command of interest from the subscriber;*

*ii) an event record that comprises a command of interest and a time associated with the command of interest;*

a subscriber attribute database, wherein said subscriber attribute database comprises an attribute of said subscriber, the attribute comprising data about the subscriber;

a subscriber information database;

a merge processor electronically connected to said content database, said subscriber-action database, said subscriber attribute database, and said subscriber information database, wherein said merge

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processor is operative to merge information from said content-access information content database, said subscriber-action database, and said subscriber attribute database to create data in said subscriber information database; and

*a data analyzer electronically connected to said subscriber information database, said data analyzer matching data of said subscriber information data store with an advertisement attribute comprising product data about a product, said analyzer further characterizing the subscriber as a desirable subscriber to receive a selected advertisement if data of said subscriber information data store matches an advertisement attribute.*

32. A method for utilizing information relating to a subscriber to identify said subscriber comprising:

receiving data from a plurality of programming and advertising sources;

*collecting subscriber data about a subscriber's use of a media delivery network, the collecting step comprising:*

> *i) identifying commands of interest from the subscriber;*
> *ii) forming event records that record at least the commands of interest and a time associated with the command;*

receiving a subscriber attribute, the subscriber attribute comprising data about the subscriber;

merging said data from plurality of programming and advertising sources, said subscriber data, and said subscriber attribute to create a subscriber information data store;

matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

*if data of said subscriber information data store matches an advertisement attribute, then identifying said subscriber as a desirable subscriber to receive a selected advertisement from a provider of said product, or*

*if data of said subscriber information data store does not match an advertisement attribute, then identifying said subscriber as an undesirable subscriber in relation to a provider of said product.*

33. A computer-readable medium on which is encoded computer program code for utilizing information relating to a subscriber to identify said subscriber as a desirable subscriber comprising:

computer program code for receiving data from a plurality of programming and advertising sources;

*computer program code for collecting subscriber data about a subscriber's use of a media delivery network, the computer program code for collecting subscriber data comprising computer program code for:*

> *i) identifying commands of interest from the subscriber, and*
> *ii) forming event records that record at least the commands of interest and a time associated with the command;*

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computer program code for merging said data from the plurality of programming and advertising sources, said subscriber data, and said subscriber attribute to create a subscriber information data store;

computer program code for matching data of said subscriber information data store with an advertisement attribute comprising product data about a product; and

*computer program code for analyzing the matched data to identify a desirability of said subscriber, such that if data of said subscriber information data store matches an advertisement attribute, then identifying said subscriber as a desirable subscriber to receive a selected advertisement from a provider of said product.*

34. (Currently Amended) A system for utilizing information related to a subscriber to identify the subscriber as a desirable subscriber comprising:

a content database, wherein said content database comprises data from a plurality of programming and advertising sources;

*a subscriber-action database, wherein said subscriber-action database comprises subscriber data about a subscriber's use of a media delivery network, the collecting step comprising:*

*i) identifying commands of interest from the subscriber;*

*ii) forming event records that record at least the commands of interest and a time associated with the command;*

a subscriber attribute database, wherein said subscriber attribute database comprises an attribute of said subscriber, the attribute comprising data about the subscriber;

a merge processor electronically connected to said content database, said subscriber-action database, and said subscriber attribute database, wherein said merge processor is operative to merge information from said content-access information content database, said subscriber-action database, and said subscriber attribute database to create data in a subscriber information database; and

*a data analyzer electronically connected to said subscriber information database, said data analyzer matching data of said subscriber information data store with an advertisement attribute comprising product data about a product, said analyzer further analyzing the matched data to identify a desirability of said subscriber, such that if data of said subscriber information data store matches an advertisement attribute, then identifying said subscriber as a desirable subscriber to receive a selected advertisement from a provider of said product.*

35. A method for utilizing information relating to a subscriber to identify said subscriber comprising:

receiving data from a plurality of programming and advertising sources;

*collecting information about at least one subscriber's usage of media applications on at least one media device, said media device supporting different applications invoked and controlled by a subscriber*

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command, the step of collecting said subscriber's usage information
further comprising:

a) accepting a selected subscriber command;

b) determining an application identifier corresponding to a
particular application to which the selected subscriber command is
addressed; and

c) creating an event record comprising:

1) the application identifier;

2) an identifier corresponding to the
selected subscriber command, and

3) a time stamp that records the time of the
occurrence of the selected subscriber command;

receiving a subscriber attribute, the subscriber attribute comprising
data about the subscriber;

merging said data from plurality of programming and advertising
sources, said subscriber's usage information, and said subscriber attribute
to create a subscriber information data store;

matching data of said subscriber information data store with an
advertisement attribute comprising product data about a product; and

analyzing the matched data to identify a desirable subscriber to
receive a selected advertisement from a provider of said product, said
desirable subscriber having matched data of said subscriber information
data store with said advertisement attribute.

U.S. Patent Application No. 10/017,640 (emphasis added by Assignee).

Boe does not disclose, teach, or otherwise suggest subscriber information about use of the
programming and advertising sources that includes i) a command of interest from the subscriber
and an ii) an event record that comprises a command of interest and a time associated with the
command of interest. Nor does Boe disclose, teach, or otherwise suggest analyzing the matched
data to identify a desirable subscriber to receive a selected advertisement from a provider of said
product, said desirable subscriber having matched data of said subscriber information data
store with said advertisement attribute. Still further, Boe does not disclose, teach, or otherwise
suggest collecting information about at least one subscriber's usage of media applications on at
least one media device, said media device supporting different applications invoked and
controlled by a subscriber command, the step of collecting said subscriber's usage information
further comprising: a) accepting a selected subscriber command, b) determining an application
identifier corresponding to a particular application to which the selected subscriber command is
addressed, and c) creating an event record comprising 1) the application identifier, 2) an

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*identifier corresponding to the selected subscriber command, and 3) a time stamp that records the time of the occurrence of the selected subscriber command.* Rather, Boe discloses profiling existing or potential customers for targeted marketing using an on-line interaction between a customer and a survey system. U.S. Patent No. 6,236,975, col. 3, line 15 thru col. 5, line 30 and col. 17, line 21thru col. 19, line 55. Therefore, independent claims 1, 16, 17, 32, 33, 34, and 35 and the respective claims that depend from each of these are considered allowable over *Boe*.

For these reasons and others, *Boe* does not anticipate nor does *Boe* obviate the currently pending claims. Accordingly, Assignee respectfully requests Examiner Ouellette to withdraw the rejections and allow the pending claims.

## CONCLUSION

All of the rejections have been overcome. Further, none of the references cited by Examiner Ouellette, alone or in combination disclose or otherwise suggest the claimed subject matter. Therefore, Assignee respectfully solicits a Notice of Allowance for all pending claims.

## AUTHORIZATION FOR PAYMENT OF FEES & REQUEST FOR AN EXTENSION OF TIME

Assignee respectfully requests an additional three month extension of time fee for the Response to the September 14, 2005 Office Action from December 14, 2005 to March 14, 2006.

| Description of Fee | Amount |
|---|---|
| Three Month Extension of Time Fee | $1020.00 |
| | |
| **Total** | **$1,020.00** |

The Assignee, therefore, includes a Credit Card Payment Form PTO-2038 for $1,020.00.
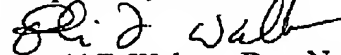
If there are any other fees due in connection with the filing of this response, please charge the fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R.

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1.136 not accounted for above, such an extension is requested and the fee should also be charged
to the credit card on file.

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If the Office has any questions, the Office is invited to contact the undersigned at (757)
784-1978 or bambi@wzpatents.com.

Respectfully submitted,

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Date: MARCH 13, 2006

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